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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,487	10/27/2003	Kent J. Myers	KMY.P.0003	1972

7590 06/03/2005  
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EXAMINER

NGUYEN, PHONG H

ART UNIT PAPER NUMBER

3724

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/692,487

Applicant(s)

MYERS, KENT J.

Examiner

Phong H Nguyen

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 10, 13-15, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 8, 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Objections*

2. It appears that claim 14 depends on claim 1 but not claim 13 since the pipe cradle in claims 13 and 14 belongs to two different embodiments as shown in Figs. 2 and 6.

#### *Claim Rejections - 35 USC § 102*

3. Claims 1-3 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Epperson (6,095,021).

Regarding claim 1, Epperson teaches a pipe cutter comprising a rotary head (32, 34), a housing gear 12, a pipe slot, a pipe cradle within the pipe slot for receiving a pipe, a cutting wheel 92, and a spring member 148 predisposing the cutting wheel to extend into the pipe slot. See Figs. 1 and 2.

Regarding claim 2, a primary drive source 156 is best seen in Fig. 1.

Regarding claim 3, a prime gear (162, 178), a first drive gear 168, a second drive gear 190 are best seen in Figs. 1 and 2.

Regarding claim 13, two freewheeling supports (100, 102) are best seen in Fig. 2.

Regarding claim 14, an adjustable block 94 is best seen in Fig. 2.

Regarding claim 15, a plurality of pipe-engaging surfaces (100, 102) is best seen in Fig. 2.

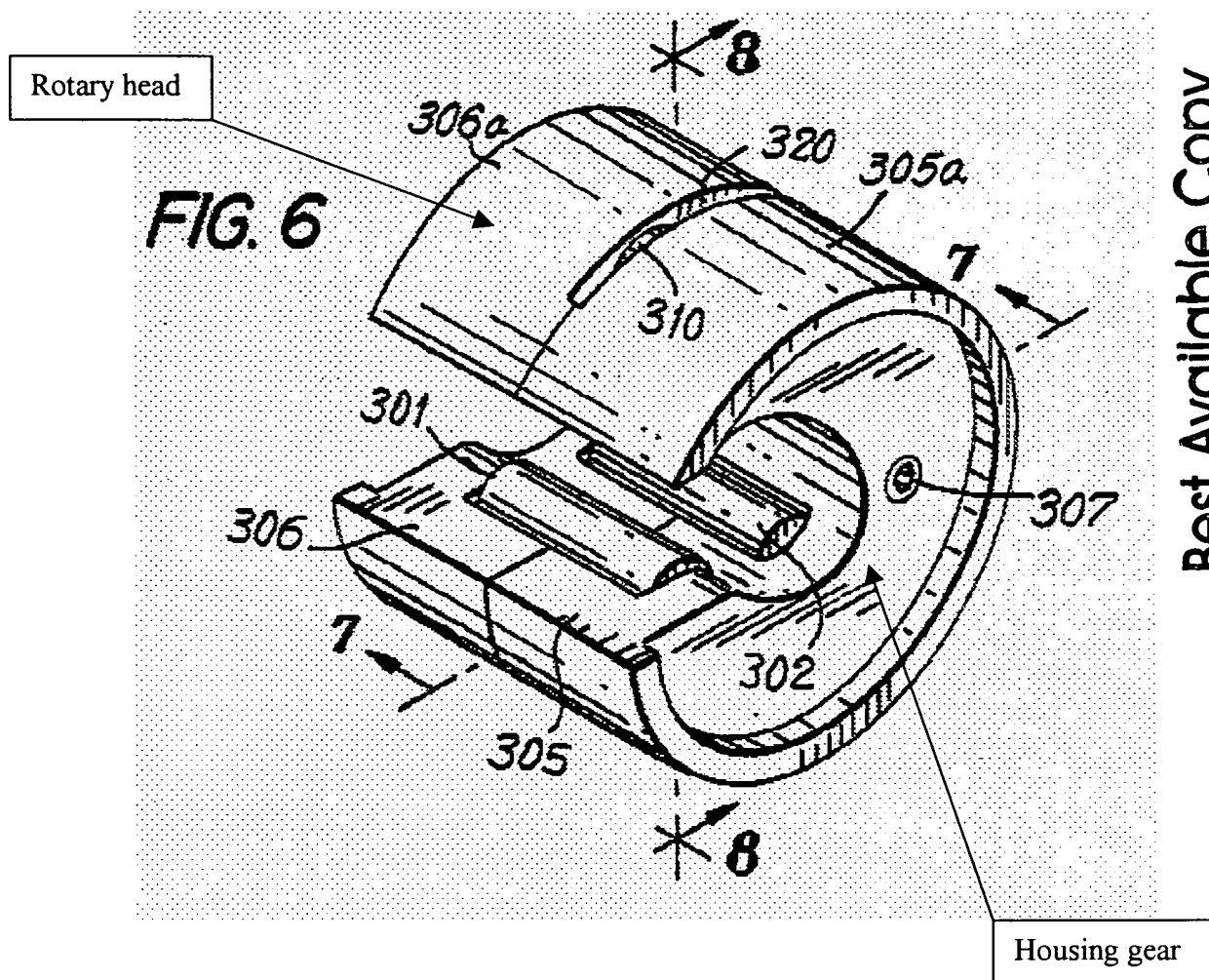
4. Claims 1, 5-7, 10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Garton (4,831,732).

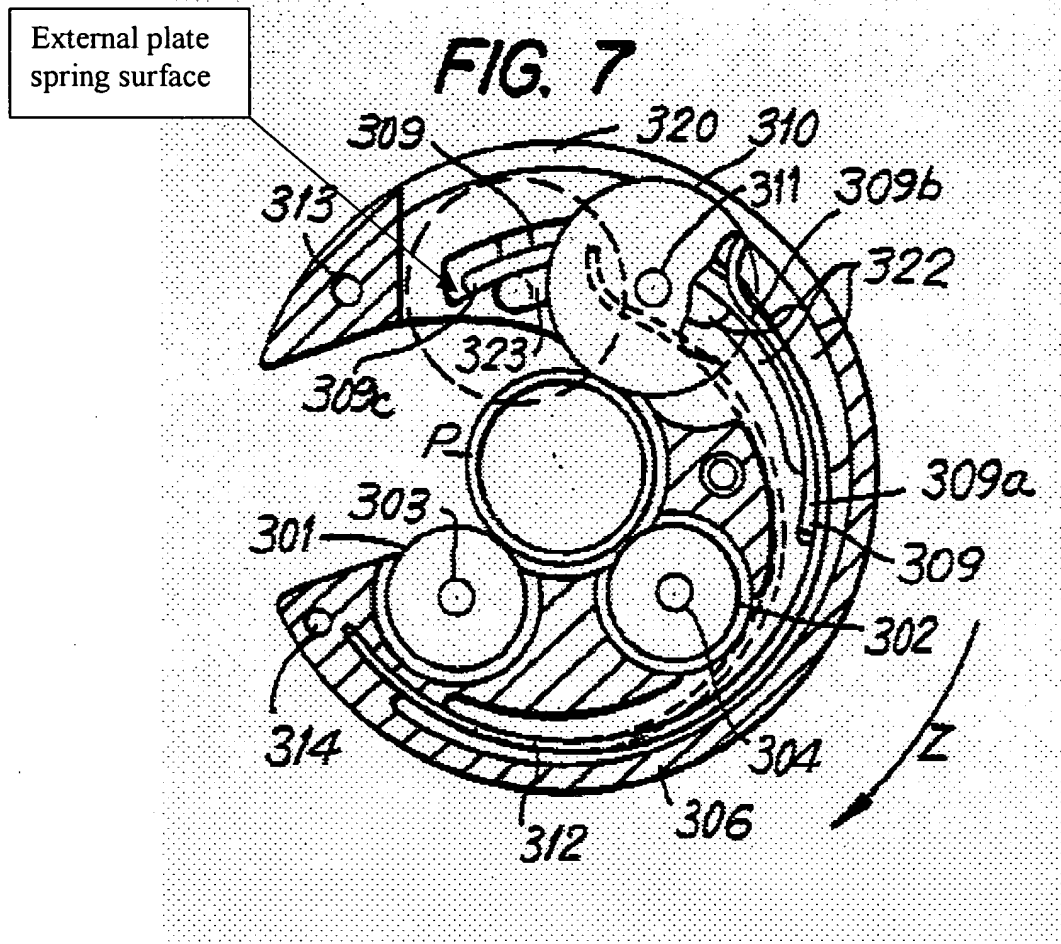
Regarding claims 1, 5 and 6, Garton teaches a pipe cutter comprising a rotary head, a housing gear, a pipe slot, a pipe cradle, a cutting wheel 310 and a spring plate member (312, 308, 309). Spring plates (308, 309) form a wheel slot. See Figs. 6-8.

Regarding claim 7, the spring plate (308, 309) contacting a cylindrical internal wall of the rotary head is best seen in Figs. 7 and 8.

Regarding claim 10, an external plate spring surface of the rotary head and the spring plate are best seen in Fig. 7.

Regarding claim 18, Garton teaches a pipe cutter comprising a rotary head, a housing gear, a pipe slot, a pipe cradle, a wheel slot 320, a cutting wheel 310, a wheel biasing member (308, 309) and a retraction hook 312. See Figs. 6-8.





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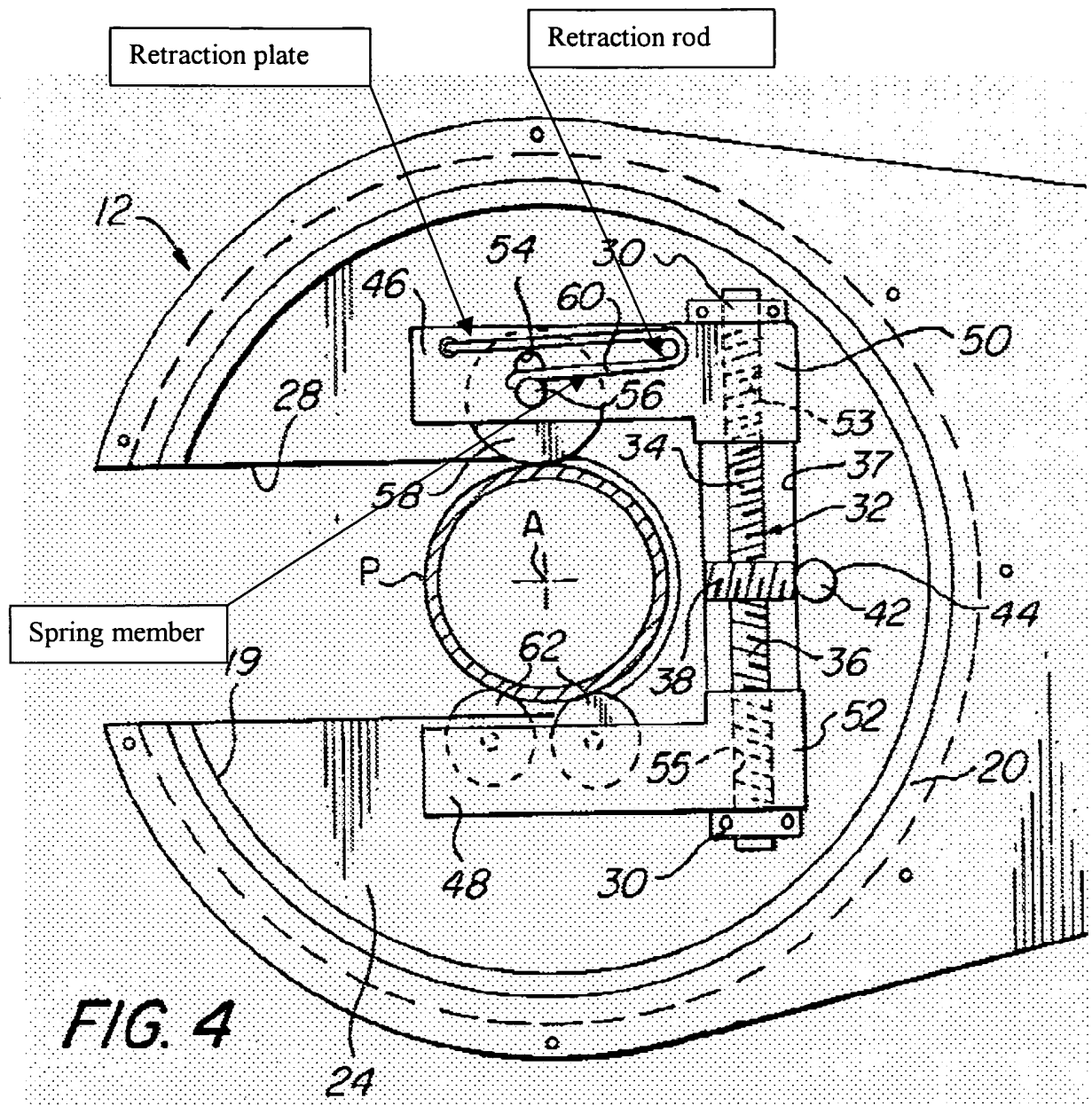
*Claim Rejections - 35 USC § 103*

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al. (6,637,15 B2), hereinafter Walsh, in view of Garton (4,831,732).

Walsh teaches a pipe cutter comprising a rotary head 12, a housing gear 24, a pipe slot, a pipe cradle, a cutting wheel 58, a spring member, a retraction plate and a retraction rod. See Fig. 4. Walsh fails to teach that the spring member is a plate spring member.

Garton teaches a spring member (308, 309) in form of a plate. See Fig. 7 and 8. It would have been obvious to one skilled in the art to provide the spring member in Walsh in form of a plate as taught by Garton as an alternative design of the spring member.

Available Copy



***Response to Arguments***

6. Applicant's arguments, see the Remarks filed on 02/22/2005, with respect to the rejection(s) of claim(s) 1-19 under Lazarevic (6,065,212) and VanderPol et al. (4,890,385) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Epperson, Garton and Walsh.

***Allowable Subject Matter***

7. Claim 16 is allowed.
8. Claims 4, 8, 9, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN:



May 27, 2005



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